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10/594,403	09/26/2006	Christopher J. Caspers	47079-00254USPX	1940
70243	7590	12/19/2008	EXAMINER	
NIXON PEABODY LLP			WILLIAMS, ROSS A	
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CHICAGO, IL 60601-3213				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/594,403	Applicant(s) CASPERS ET AL.	
	Examiner ROSS A. WILLIAMS	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,7-14,16,17,43,44,46 and 48-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-14,16,17,43,44,46 and 48-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/17/08,9/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 52 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 52 states that a remainder of a wager is used to determine if a consolation prize is won. It is unclear as to what the remainder of a wager is referring to. Also it is known in chance machines to offer a player a consolation prize in the event that a player loses. It is unclear as to who this consolation award is awarded to as per the claim language.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 8, 10, 43, 44, 46, 48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859).

Regarding claim 1, 8, 10, 43, 44 and 46 Moody discloses a basic game having a plurality of symbols that indicate a randomly selected outcome of a basic game (10:5 - 11:8). Moody also discloses that whereupon a player achieving a particular hand combination, the player may play a bonus round that has a jackpot that can either be a fixed amount or may be a progressive jackpot. Thus the bonus feature would be a progressive feature. The player does not initially receive an award for triggering the progressive bonus feature. The player receives a progressive award depending on the results of the bonus round (11:9-23). Moody does not disclose the progressive award increasing due to a wagers being input from a plurality of game terminals Jones et al discloses a progressive game that is played by multiple game terminals wherein the progressive award increases in relation to the wager inputs at each game machine (Jones 3:41 - 60).

One of ordinary skill in the art would be motivated to combine the teachings of Moody in view of Jones et al. for the purpose of providing a progressive game that utilizes a plurality of game terminals wherein the value of the progressive award increases in relation to the value of the wagers. Progressive games of this type are able provide greater value awards than stand alone game machines. The chances of receiving greater awards are enhance the attractiveness of the games.

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Regarding claim 48, Moody discloses the randomly selected outcome that is not selected during the base game (Moody 11:9 - 23).

Regarding claim 50, Moody discloses that the randomly selected outcome that can trigger a bonus round is determined after a preset wager amount is input (Moody 11:3 - 5).

Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and further in view of Visocnik (US 2004/0048646).

Regarding claim 2 Moody does not disclose wherein the bonus game affords the player one or more free spins. Nor does moody disclose that a maximum or minimum number of free spins. Visocnik discloses a bonus game that is trigger in a basic game wherein the player is awarded an allotment of free bonus games or spins (Visocnik page 11:par 121). Visocnik teaches the use of a spin counter that determines the number of spins that the player is awarded. The counter is obviously initialized to a maximum number and counts down to a minimum number. Thus the player is awarded a minimum and a maximum number of free spins.

One of ordinary skill in the art would be motivated to modify Moody in view of Jones et al. and in further view of Visocnik to provide a bonus feature wherein a player is awarded a plurality of free spins. Free spins allow a player to have more opportunities in the game to try to win more prizes, money or awards.

Regarding claim 4, Moody does not disclose a bonus game that offers the player

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free spins, wherein these free spins are associated with monetary and non-monetary values. Visocnik discloses offering a player a bonus game wherein the player given free spins. Wherein the free spins yield to the player bonus awards (Visocnik page 11:par 121). Visocnik also discloses that the award may be in the form of coins or game tickets that represent an amount of game credits (Visocnik page 5:par 76). Thus Visocnik discloses awarding the player monetary and non-monetary awards.

One of ordinary skill in the art would be motivated to modify Moody in view of Jones et al. and in further view of Visocnik for the purpose of providing monetary and non-monetary awards that are associated with the free spins. This is beneficial to the player and the casino due to the fact that not all players prefer to be paid in monetary values or non-monetary values.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and further in view of Cannon (US 2003/0125102).

Regarding claim 7, Moody does not disclose a progressive bonus round that is associated with a multiplier that increases the monetary award the player may receive. However, Cannon discloses a game machine wherein symbols will be arranged upon pay lines and certain combinations of symbols can provide a player with a possible progressive bonus award. The indicia may also be associated with a multiplier for providing a larger sum of money that may be won by the player (Cannon page 6:par 55)

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One of ordinary skill in the art would be motivated to modify Moody in view of Jones et al. and further in view of Cannon to provide a progressive award that is associated with a multiplier for increasing the amount of money that a player can win. Cannon discloses that multipliers are commonly known to those of ordinary skill in the art for enhancing game play (Cannon page 6:par 55).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and further in view of Baerlocher et al. (US 6,599,193).

Regarding claim 9, Moody discloses a progressive award feature. Moody does not disclose that the progressive award feature is measured in integers and increases by an incremental value for each wager input, wherein the incremental value is a fraction of the integer. Baerlocher describes a progressive game wherein the award can reach 1 million dollars, which is an integer value, and every time a player makes a wager a percentage of the wager is contributed to the jackpot (Baerlocher 1:31 - 44).

One of ordinary skill in the art would be motivated to modify Moody in view of Jones et al. and further in view of Baerlocher to provide a progressive award that is measured in integers and increases by a fraction of every wager. This is well known and common in the art with regards to progressive game machines.

Claims 11, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied

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above, and further in view of Thomas (US 6,190,255).

Regarding claims 11, 12 and 13, Moody discloses a gaming terminal wherein the player can qualify for a bonus round or follow up game play wherein the bonus round offers a progressive award (Moody 11:9 - 23). Moody discloses a display layout wherein the player is dealt card in a grid-like format (Moody Figs 1 - 26). These cards are selectable by the player when they want to hold or discard a particular card (Moody 11:1 - 3). These cards or options have value associated with them in the form of suit and rank. However, Moody does not disclose that the options are associated with game terminating or multiplier options. Thomas however discloses a bonus game wherein the player is presented with a grid of options wherein the options are associated with multipliers and game terminating options (Thomas 5:57- 62, 9:58 - 61, 10:61 - 64).

One of ordinary skill in the art would be motivated to modify Moody et al in view of Jones et al. and further in view of Thomas et al. for the purpose of providing follow up game play that includes options that are associated with multipliers and terminators. These will enhance the player's excitement and anticipation, as they will be able to increase their potential bonus payouts. Terminators are commonly used in bonus games to increase the player's element of risk in that they try achieving higher winnings in exchange for already possessed winnings.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) and in view of

Thomas (US 6,190,255) as applied above, and in further view of Swift (US 2004/0002376).

Regarding claims 14, Moody discloses a progressive bonus feature that awards a progressive jackpot based upon follow up game play in a bonus round (Moody 11:9 - 24). Moody does not disclose that the bonus game is associated with game terminators that change or decrease as the progressive award changes or increases. Swift discloses a progressive game wherein the bonus is associated with game terminators that decrease in relation to an increase in the amount that a player wagers in a base game (Swift page 5:par 61). Thus the larger a player's wager the more the progressive award will increase as well. In response to the larger wager which will increase the progressive jackpot the number of game terminators will decrease.

One of ordinary skill in the art would be motivated to combine the teachings of Moody in view of Jones in view of Thomas and in further view of Swift for the purpose of providing a game wherein the larger the progressive award is the amount of game terminating options decrease. This would provide the player who makes a larger more risky wager to have a greater chance at winning the larger progressive award.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and further in view of Marks et al. (US 2003/0236116).

Regarding claim 16, Moody discloses a game wherein the player is offered a progressive award for a winning combination of cards such as a royal flush (Moody

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11:15 - 18). Moody does not disclose a player being offered multiple progressive awards such as for different winning combinations. Marks disclose that a player can be offered a different progressive award for different winning combinations of a game machine.

One of ordinary skill in the art would be motivated to combine the teachings of Moody in view of Jones and in view of Marks for the purpose of providing a player with the opportunity to achieve different progressive awards for winning combinations. Multiple progressive awards provide a player with more opportunities to win a game.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and in view of Wells (US 2003/0064805).

Regarding claim 49, Moody does not disclose a plurality of game machine terminals that play a progressive game wherein the terminals are connected to an external game controller that determines the randomly selected outcomes of the basic game. Wells discloses a game system that utilizes wireless game terminals wherein a master game controller generates the game outcomes and presents them to the wireless game terminal (Wells page 2:par 16). Wells further states that these wireless game terminals can be used to participate in a progressive game. Thus the master game controller would also control the game outcomes for the progressive game as well.

One of ordinary skill in the art would be motivated to combine the teachings of

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Moody in view of Wells to provide a game in which an external game controller is provided to control the outcomes of a progressive game. This is beneficial due to the fact that only one game component such as the game controller is responsible for determining the game outcomes instead of multiple game machine terminals. This enables for more exact synchronization between the game terminals and the game controller.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above, and in view of Olsen (US 2001/0004607).

Regarding claim 51, Moody does not disclose the inputting of a maximum wager at a plurality of gaming terminals. Olsen discloses a plurality of game machines wherein a player has to make a maximum wager to be eligible for bonus time period (Olsen page 8:par 81 - 83).

One of ordinary skill in the art would motivated to combine the teachings of Moody in view of Jones and in view of Olsen to provide a game machine that utilizes a maximum bet value at a plurality of game terminals. Maximum wager features are common in game machines and are commonly used to determine a players eligibility for a grand prize, jackpot etc.

Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,007,066) in view of Jones et al (US 6,336,859) as applied above,

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and Weiss (US 6,609,973).

Regarding claim 53, Moody does not disclose a progressive award having multiple levels wherein if a player wagers a preselected amount the remainder of the wager will be used to determine the level of the progressive award that is awarded. Weiss discloses that a progressive game with multiple award levels with differing amount of awards depending on the amount wagered. Weiss discloses that a player can be issued a progressive award of a lower amount if the player makes a wager of a lower value. A progressive award of a higher value will be available to a player if a player makes a maximum wager. Thus the lower value wager is a preselected wager amount and if a player wagers an amount greater (i.e. the remainder amount) than lower amount, such as the maximum amount they will be eligible for the greater level progressive award.

One of ordinary skill in the art would be motivated to combine the teachings of Moody in view of Jones et al, and further in view of Weiss to provide a game that has multiple different levels of progressive awards that are available to the player depending upon how much the player decides to wager. This is beneficial to the player because the player does not have to always bet a maximum amount to be eligible for the progressive award.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROSS A. WILLIAMS whose telephone number is 571-272-5911. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ronald Laneau can be reached on 571-272-6784. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. A. W./
Examiner, Art Unit 3714

/Ronald Laneau/
Primary Examiner, Art Unit 3714
12/17/08